UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GUIDANCE FROM HOTLINE COMPENDIUM

WSG H27
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Revised by: Jennifer Melch

SUBJECT: Treatment Facilities as Public Water Suppliers

SOURCE: Betsy Devlin

Title 40 CFR Section 141.3 establishes the coverage and scope of the National Primary Drinking Water Regulations (NPDWRs). This section lists four conditions which a public water system—as defined in Section 141.2 (as amended by the Primacy Rule [63 FR 23361, April 28, 1998])—must meet in order to qualify for exclusion from the NPDWRs. One of the four conditions states that a water system must consist [141.3(a)] "...only of distribution and storage facilities (and does not have any collection and treatment facilities)" [emphasis added].

Water Supply Guidance No. 37 (December 8, 1976), contains a discussion of the definition of treatment. While this discussion provides a basis for interpreting the term with respect to chemical corrosion control treatment, it does not establish an overall working definition. For example, the discussion does not explicitly state whether "non-chemical" technologies (e.g., physical treatment) are considered to be treatment. In addition, literal interpretation of the definition would classify typical point-of-entry (POE) systems, such as lime-soda water softeners, as treatment. Is it the intent of EPA to regulate this type of system?

If so, implementing POE methods of corrosion control, discussed in *Lead in Schools' Drinking Water* (EPA 580/9-89-001), would seemingly result in those schools/facilities being classified and therefore regulated as consecutive public water systems.

The existing definition of treatment also appears to be no longer sufficient in addressing potential situations resulting from the recent proliferation of point of use (POU) water treatment systems. For example, if an apartment landlord owns and maintains POU devices in his rental units, is he to be regulated as a public water system?

Response:

Water Supply Guidance No. 8A (December 8, 1976) addressed the question of the definition of treatment and stated that any person (as defined by the SDWA) who adds any chemical to its drinking water supply is a public water system and is covered by the NPDWRs. In coming to this conclusion, the guidance provided useful information on the definition of treatment and treatment facilities.

The standard dictionary definition of "to treat" is "to subject to some agent or action to bring about a particular result." Water can be "treated" with a chemical agent, such as sodium silicate, in order to bring about a reduction in corrosivity.

The addition of such a substance necessarily changes the chemical composition of the water into which it is added. As such, the addition of chemicals into drinking water to reduce corrosivity should be considered "treatment" within the meaning of SDWA, Section 1411(a). The legislative history of Section 1411 makes it clear, moreover, that Congress only intended to exempt those public water systems, such as hotels or trailer parks, which "merely store and distribute water..."

Furthermore, the standard dictionary definition of a "facility" is "something designed to serve a specific function." Presumably, the on-site addition of corrosion-reducing chemicals into a water supply requires devices, holding tanks, or units to regulate the mixture.

Therefore, the addition of corrosion-reducing substances into water supplies presumably requires "treatment facilities" within the meaning of the SDWA.

Generally, the term "treatment facilities" should be interpreted broadly. Otherwise, the unregulated proliferation of individual on-site chemical treatment of drinking water supplied by public water systems could seriously interfere with efficient regulation of the quality of drinking water, contrary to the purpose of the SDWA to regulate all public water systems "to protect health to the maximum extent feasible."

Consistent with this guidance, then, if a building owner or operator installed a point of entry or point of use device, the device would be considered a "treatment facility." Therefore, the building would become a public water system (assuming it met the requirements of the definition; i.e., had at least 15 service connections or regularly served at least 25 individuals) and the building owner/operator would become a supplier of water as defined by the SDWA. The system would be subject to the SDWA and the NPDWRs.

This approach, however, while consistent with existing policy, may result in a large increase in the number of public water systems, especially as many buildings are installing devices to improve the quality of their water; for example, many schools are installing corrosion control to reduce the lead content of their drinking water to help protect the health of the children. If all these buildings become public water systems subject to all the regulations, we may discourage systems from trying to improve the quality of their water. In addition, we would place a great burden on the States who will be responsible for overseeing all these systems.

Therefore, while the systems described above are public water systems subject to the SDWA and the NPDWRs, they nonetheless may be afforded certain monitoring modifications if they are considered a "consecutive" water system. "Consecutive" water systems are water systems that purchase water from another public water system. Under federal regulations at 40 CFR 141.29, States have the flexibility to modify the monitoring requirements to the extent that the interconnection of the systems justifies treating them as a single system. This flexibility allows States considerable discretion to avoid unnecessary compliance activities.